

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 120 of 2003

With

FIRST APPEALS No. 121 to 128 of 2003

with

CIVIL APPLICATIONS No. 179 to 187 of 2003

For Approval and Signature:

Hon'ble MR.JUSTICE J.N.BHATT

and

Hon'ble MR.JUSTICE K.A.PUJ

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1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
2. To be referred to the Reporter or not? : NO
3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the concerned : NO
Magistrate/Magistrates, Judge/Judges, Tribunal/Tribunals?

UNITED INDIA INSURANCE CO LTD.

Versus

HEIRS OF DECD.RAMABEN LABHUBHAI

Appearance:

MS AVANI S MEHTA for appellant.

CORAM : MR.JUSTICE J.N.BHATT
and
MR.JUSTICE K.A.PUJ

Date of decision: 20/01/2003

ORAL JUDGEMENT

(Per : MR.JUSTICE J.N.BHATT)

In this group of 9 First Appeals under the provisions of Section 173 of the Motor Vehicles Act, 1988 identical questions arise and therefore they are being disposed of by this common judgment.

2. The appellant, United India Insurance Company is the insurer of one of the offending vehicles which ended in an unfortunate road mishap which took heavy toll of human life namely the truck No. GJ1-4U-5525. The said truck was insured by the appellant. There was an accident between the truck and the goods rickshaw. The victims of the unfortunate road mishap which occurred on 10.9.2000 at about 10.30 p.m. near Mandavraiiji Petrol Pump 3 Kms. away from Wadhvan on Wadhvan Viramgam Road and out of those, three were minors. The goods rickshaw was bearing registration No. GJ1-T-5140.

3. It is explicit from the record as well as from the submission that the claimants are the third parties. Therefore the apportionment of the contribution of tort or wrong between two drivers will not be very material and significant qua them as for third parties it would be a case of composite negligence and it is a settled proposition of law that in case of composite negligence of 2 drivers of 2 vehicles or more it is not the contribution in the happening of the unfortunate road accident will determine the liability but the very factum of wrong irrespective of degree or extent of the contribution in the happening of such road accident it is for the tortfeasors to recover the compensation amount or damages from any one of the tortfeasors unconcerned with the degree or extent of contribution. Therefore, the submission raised before us requires to be rejected at the outset. Accordingly it shall stand rejected. Since this sole question goes to the root of the matter and is based on the celebrated, expounded and propounded proposition of law in the realm of jurisprudence of tort [composite negligence philosophy], the entire group of appeal shall stand dismissed at the threshold.

4. The amount of Rs. 25,000/=, in each matter deposited before the Registry of this High Court as a condition precedent for filing of the appeals under Section 173 of the Motor Vehicles Act, 1988, is directed to be transmitted to the Tribunal concerned with a further direction that the same will be considered for

the purpose of disbursement of the amount to the victims of the road accident by the Tribunal concerned.

5. There shall be no order on the Civil Applications and they are rejected accordingly with no order as to costs.

[J.N. Bhatt, J.]

rmr. [K.A. Puj, J.]